

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7014

BILL NUMBER: SB 433

NOTE PREPARED: Apr 2, 2013

BILL AMENDED: Apr 2, 2013

SUBJECT: Abandoned Property.

FIRST AUTHOR: Sen. Paul

FIRST SPONSOR: Rep. Hamm

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: Local

Summary of Legislation: (Amended) This bill has the following provisions:

Tax Sale Properties- City/Town: The bill requires a county executive, in preparing the list of tax delinquent properties that must be submitted annually to the county auditor, to include on the list any real property that the executive of a city or town located in the county has determined to be abandoned and has identified as such to the county executive.

It requires the county auditor of a county not having a consolidated city to prepare a list of tracts or items of real property within each city or town located in the county for which the fall installment of the most recent previous year's taxes is delinquent and to give a copy of the list to the appropriate city or town or post the list on the county's web site.

It requires a county executive to give notice to the executive of a city or town in which is located real property that is subject to sale or transfer under the statute governing sale or transfer of properties with delinquent taxes or assessments so that the city or town may accept transfer of the property.

Tax Sale Properties- Transfer to Individual: It establishes a procedure to permit a county executive to dispose of certain properties that did not sell at the tax sale to a person able to repair and maintain the properties. It provides that before the county executive may transfer properties that did not sell at a tax sale to a nonprofit corporation, an abutting property owner, or a person satisfactorily able to repair and maintain the property, a person with a substantial interest in the property must be given an opportunity to redeem the property.

Contiguous Vacant Parcels: The bill removes a requirement that the county executive's sale of a certain

contiguous vacant parcel to an adjoining property owner may be conducted only if construction of a residential dwelling is permitted on the vacant parcel.

Property Maintenance: The bill requires certain notices concerning demolition and removal under the unsafe building law be served on each person with a known or recorded substantial property interest.

It authorizes a municipality or county to bring an action to collect unpaid expenses relating to the abatement of high weeds and grass. (Under current law, the municipality or county may obtain only a lien on the property containing the high weeds and grass.)

It provides that a creditor is a person immune from civil liability for entering abandoned real property to perform certain actions to clean up the real property. It provides that removal or painting over graffiti is an action that is immunized.

It provides that a person who enters or refuses to leave vacant or abandoned property after having been barred from the property by a court order or a law enforcement officer commits criminal trespass.

It provides that for purposes of the statute relating to removal of weeds from properties, notice may be given by first class mail rather than by certified mail.

Abandoned Property: The bill amends a statute authorizing the judicial determination that real property subject to a mortgage is abandoned so as to authorize the judicial determination under that statute that real property not subject to a mortgage is abandoned.

Sprinkler System: The bill provides that the Indiana Fire Prevention and Building Safety Commission may not adopt a rule that requires a sprinkler system to be installed and maintained at a youth camp in: (1) a structure for sleeping quarters that is designed for not more than 30 individuals and does not have any cooking facilities in the structure; or (2) a tent. It provides that application of such a rule is void, to the extent of any inconsistency.

Technical Corrections: The bill makes certain technical changes.

Effective Date: July 1, 2013.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) *Tax Sale Properties- City/Town:* Under this bill, for counties other than Marion County, the county auditor is to prepare a list of tracts or items of real property for which the fall installment of taxes for the most previous year is delinquent. The auditor is to forward a copy of the list to each city or town in the county or publish the list on the county's website (under current law, the Marion County auditor forwards a similar list to the Metropolitan Development Commission). Additionally, after June 30, 2013, the auditor of every county has to either provide a list of parcels that were not purchased at the tax sale to the executive of each city or town in the county that requests it, or post the list on the county's website. This must be done no later than 30 days after the tax sale.

The fiscal impact would depend on local action. A few counties already post the list of parcels to be sold at the tax sale on their website. Whether a county chooses to send the two lists (pre-tax sale and post-tax sale) to its cities or towns or post them on its website, this would be done within existing resources.

(Revised) *Property Maintenance*: Under this provision, the administrative and maintenance costs of the municipality or county would probably decrease. For example, serving the notice to each person with a known or recorded substantial property interest that a building is unsafe and may require demolition or frequent reinspection may result in pressure on the owner to resolve the violation sooner, thereby reducing maintenance and postage costs; similarly, maintenance costs could also be reduced by granting a creditor immunity from civil liability if the creditor enters the property to remove or paint over graffiti.

Additionally, prosecuting an individual who enters or refuses to leave vacant or abandoned property after having been barred from the property by a court order or a law enforcement officer may lead to a reduction in maintenance costs if the individual intended to damage the property. This provision also permits violations of the statute relating to the removal of weeds from properties to be mailed by first class mail (approximately a \$3 savings over certified mail required by current law).

Explanation of Local Revenues: Summary:

(Revised) (1) *Tax Sale Properties- City/Town*: The fiscal impact is indeterminable at this time and would depend on local action. However, at a minimum, this bill provides the executive of a city or town with a formal mechanism to negotiate with the chief executive of the county on how vacant or delinquent property within its boundaries should be disposed of. If the county chief executive were to sell or transfer the property, the city or town could lose the full amount of the delinquent taxes due it. Under this bill, the city or town could potentially have a more cost-effective method of managing its delinquent properties.

(Revised) (2) *Tax Sale Properties- Transfer to Individual*: This bill would give the county the opportunity to gain additional revenues once the property has been fully returned to the tax rolls. Initially, the bill permits an individual to acquire properties without any payment (apart from a refundable bond payment) of taxes or penalties. Theoretically, this could be considered a loss of potential revenue to the county. However, the reality is that for the property in question, the county was previously unable to sell it at a tax sale, it was not redeemed, and under this bill, the city or town in which the property is located did not wish to have it transferred to them. Additionally, the county has to maintain the properties, adding to its expenditures.

If this provision causes property to be returned to the tax rolls, this could ultimately lead to an increase in property tax revenues. The total net increase in local revenue is indeterminable at this time and would depend on the number of properties returned to the tax rolls and the property tax payments they generate.

(Revised) (3) *Contiguous Vacant Parcels*: The provision gives the county added flexibility in disposing of its delinquent properties. Removing this restriction may result in the development of a parcel that otherwise could have remained undeveloped, and this could lead to an increase in local property tax revenues.

(Revised) (4) *Property Maintenance*: Under this provision, the municipality or county potentially could have a better opportunity to collect any delinquent payments if the county or municipality were able to place a lien on all of the owner's property rather than just on the property involved in the violation.

(Revised) (5) *Abandoned Property*: Under this bill, having the property declared as vacant or

abandoned would permit the county to dispose of the property in accordance with the current statute. For example, the county could put it up for sale, and if no one purchased it, have it transferred to a nonprofit corporation or an individual who would develop it. In the long term this may lead to an increase in property tax revenue.

(Revised) *(6) Sprinkler System:* The Commission would be able to address any impact within existing resources.

Additional Information:

(Revised) *Tax Sale Properties- City/Town:* Under current law, the county executive certifies to the county auditor a list of delinquent or vacant or abandoned properties to be sold at a tax sale. After the tax sale, the county executive receives a list of properties that were not sold. The executive may transfer the property to a nonprofit corporation or political subdivision (current law) or to an individual (this bill), or if the parcel is vacant as defined by current law sell it for a nominal fee to an individual (current law).

This bill permits a city or town to have priority in deciding how a delinquent, vacant, or abandoned property within its boundaries should be disposed of. Under this bill, the executive of a city or town may submit to the chief executive of the county a list of vacant or abandoned properties within its boundaries to be included in the list of properties to be sold a tax sale. Before the tax sale, the city or town executive would have the opportunity to see the list of delinquent properties eligible for a tax sale that are within its boundaries. If the properties are not sold at a tax sale, the city or town would have priority in acquiring the property from the chief executive of the county before the county executive transfers it or sells it in accordance with current law or this bill.

(Revised) *Tax Sale Properties- Transfer to Individual:* Under current law, a county executive, who has acquired properties that did not sell at a tax sale, may transfer the property to a nonprofit corporation for use for the public good. This bill would also permit the county executive to transfer the property to an individual who is able to adequately maintain the property if doing so is in the public interest. As under current law, the individual would not be required to pay any of the taxes and penalties that the property has accrued. However, under this bill, the individual may be required to post a bond not exceeding 25% of the delinquent taxes, penalties, and costs of the sale of the property. The bond would be forfeited if the person does not satisfactorily repair and maintain the property according to an agreement with the county, and the property would be returned to the county executive.

(Revised) *Property Maintenance:* Under current law, if the owner of real property violates the statute relating to removal of weeds from properties, the municipality or county can serve notice against the owner. If the owner fails to pay the fine imposed, this provision authorizes the municipality or county to obtain a lien against all of the owner's property, not just the property against which the initial fine was issued.

State Agencies Affected: Indiana Fire Prevention and Building Safety Commission.

Local Agencies Affected: County executives; County auditors; Counties; Municipalities; Executives of cities and towns.

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